

REMARKS/ARGUMENTS

In the restriction requirement dated September 10, 2008, the Examiner delineated distinct inventions based on claims 1-9 as originally filed. However, on October 7, 2008, in a telephone conversation with Examiner Taylor V. Oh it was brought to his attention that on August 10, 2006, a Preliminary Amendment was filed listing 18 claims for consideration. Based on the restriction requirement wherein Applicants elected to prosecute the catalyst, Claims 1-8 and 10-13 should be in Group I, and Claims 9, 14-18 as Group II. Accordingly, Applicants elect Group I (Claims 1-8 and 10-13) without traverse.

Further, Applicants reserve the right to file a divisional application on the non-elected subject matter if so desired, and be accorded the benefit of the filing date of the parent application.

Divisional applications filed thereafter should not be subject to double-patenting ground of rejection, 35 U.S.C. § 121, *In re Joyce* (Comr. Pats. 1957) 115 USPQ 412.


Restriction is only proper if the claims of the restricted group are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803).

Applicants make no statement regarding the patentable distinction of the groups but note that for the restriction to be proper there must be patentable differences.

Applicants submit that the above-identified application is now in condition for examination on the merits and an early notice of such action is earnestly solicited.

Respectfully submitted,

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